

**GOVERNMENT OF ANDHRA PRADESH**  
**A B S T R A C T**

Public Services – Prohibition & Excise Dept – Sri Shaik Khader Babavali, Prohibition & Excise Inspector, Udayagiri, Nellore Dist. – Allegation of Corruption – Convicted by the Hon. Special Court – Acquitted by the Hon. High Court – Special Leave Petition in Hon. Supreme Court of India – Representation of the Charged Officer – Reviewed – Revised orders – Issued.

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**REVENUE (VIGLANCE-V) DEPARTMENT**

**G.O.Ms.No. 540**

**Dated:17-10-2013.**

**Read the following:-**

1. From the D.G., ACB, Hyd. Rc.No.81/RCT-NNL/98, Dt. 12.01.1999
2. G.O.Ms.No.437, Revenue (Ex.I) Department, dt.02.06.1999.
3. From the Spl. Court for ACB Cases, Nellore CC.No. 13/1999, dt.07.01.2005
4. From the D.G. ACB, Hyd. Lr.No. 81/RCT-NLR/1998, dt. 12.01.2005 & 08.04.2005.
5. G.O.Ms.No.1112, Revenue (Vig.V) Department, dt.8.6.2005.
6. From Hon. High Court of A.P., Hyd., orders dt.02.02.2011 in Crl. Appeal No.13 & 14 of 2005.
7. Reprn of Sri Shaik Khader Babavali, received on 14.06.2011.
8. Govt. Memo No.9830/Vig.V(1)/2011-3, dt.20.07.2011.
9. From the Hon'ble APAT, Hyderabad orders dt.23.11.2011 in O.A.No.8871/2011.
10. Reprn of Sri Shaik Khader Babavali, received on 15.12.2011.
11. G.O.Rt.No.27, Revenue (Vig.V) Department, dt.05.01.2012.

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**ORDER:**

1. The Anti-Corruption Bureau authorities trapped Sri Shaik Khader Babavali, Prohibition & Excise Inspector, Udayagiri, Nellore District on the allegation that he demanded and accepted a bribe of Rs. 10,000/- from Sri N.B. Prasad on 27.06.1998 for doing an official favour of allowing him to carry on the business smoothly without harassment. He was kept under suspension with effect from 16.07.1998.
2. Basing on the final report of the Director General, Anti Corruption Bureau, Hyderabad, Government have permitted the Director General, Anti-Corruption Bureau, Hyderabad, to prosecute the Accused Officer. Accordingly, the Director General has filed charge sheet in the Hon'ble Special Judge for SPE & ACB Cases, Nellore.
3. The Special Judge for SPE & ACB Cases, Nellore pronounced judgment on 07.01.2005 convicting the Charged Officer and ordered for rigorous imprisonment (reference 3<sup>rd</sup> above).
4. With reference to the conviction of Sri Shaik Khader Babavali, by the Special Judge for SPE & ACB Cases, Nellore in CC.No.13/1999 & the report of the Director General, Anti Corruption Bureau, Hyderabad thereon, Government have dismissed him from Government Service with effect from 08.06.2005 (reference 5<sup>th</sup> read above).
5. Aggrieved by the same, Sri Shaik Khader Babavali has filed Crl. Appeal No. 13/2005 before the Hon. High Court of A.P., Hyderabad and the Hon. High Court of A.P, in its orders dt.02.02.2011, have acquitted the accused allowing the Criminal Appeal No. 13/2005 and set aside the judgment of the Special Judge for SPE & ACB Cases, Nellore in CC.No.13/1999, dt. 07.01.2005 (reference 6<sup>th</sup> read above).

(P.T.O)

7. While furnishing the opinion of the Special Chief Legal Adviser, Anti-Corruption Bureau, Hyderabad / the Additional SC-Cum-Special Public Prosecutor for Anti-Corruption Bureau, the Director General, Anti-Corruption Bureau has stated that it is a fit case to file a SLP in Hon'ble Supreme Court of India on the above judgement of Hon. High Court of A.P. & requested for permission in the matter.

8. Accordingly, on 20.07.2011, Government have permitted the Director General, Anti-Corruption Bureau to file Special Leave Petition in Hon'ble Supreme Court of India against the orders of Hon'ble High Court of A.P. in Crl. Appl. No. 13 & 14 of 2005, dt. 02.02.2011 vide reference 8<sup>th</sup> read above.

9. In accordance with the above orders of Government, the Director General, Anti-Corruption Bureau has filed Special Leave Petition in Hon'ble Supreme Court of India, New Delhi on 08.09.2011 vide Diary No. 28422/2011 & the same was registered & converted by the Hon. Supreme Court of India as Special Leave Petition (Criminal) 19380-19381 of 2011.

10. Further, in accordance with the orders of Hon. A.P. Administrative Tribunal dt. 23.11.2011 in O.A.No. 887/2011 filed by Sri Shaik Khader Babavali & considering his representation thereon, Govt. vide G.O.Rt.No. 27, Revenue (Vig.V) Dept., dt. 05.01.2012 have requested the Commissioner of Proh. & Excise to treat his dismissal period from 08.05.2005 to 31.05.2009 as 'deemed suspension' and treat his suspension periods from 16.07.1998 to 05.01.2001 and deemed suspension period as "not on duty", as the same cannot be treated as 'not wholly justified'. During the said suspension period i.e., from 16.07.1998 to 05.01.2001 and the deemed suspension period i.e., from 08.05.2005 to 31.05.2009 the individual will be entitled to be paid of substance allowance only. However, these periods shall count for all other benefits i.e., notional increments, leave, notional pay/pension, fixation, notional seniority, promotion, etc. However, that order was issued subject to outcome of the Special Leave Petition filed before the Hon'ble Supreme Court of India against the orders of Hon'ble Andhra Pradesh High Court.

11. Thereafter, the representations of Sri Shaik Khader Babavali dt. 14.06.2011 & 15.12.2012 to drop further action in the matter and to release his legitimate monitory and pensionary benefits was examined by the Government. After careful examination of the details of the case i.e., conviction orders of the Special Judge for SPE & ACB Cases, Nellore; acquittal orders of the Hon. High Court of A.P; and, representation of the individual, Government in its review have observed that the complainant has turned hostile before the trial court. The Accused No.2 put a plea before the Court that the amount was received towards the part payment of licence fee but not as a bribe. It was not established before the Court that there was demand of bribe amount by the A.O.1. Therefore, the High Court extended benefit of doubt to the Accused Officer and acquitted him of the offence. Hence, it is doubtful whether the Apex Court will ultimately admit the Special Leave Petition filed in the Supreme Court against the above judgment of the High Court. It is therefore, decided to withdraw the SLP No. 19380-19381 of 2011, filed in the Supreme Court.

12. Government after careful examination of the circumstances of the case hereby request the Director General, Anti-Corruption Bureau, Hyderabad, to withdraw the SLP No.19380-19381 of 2011 filed in the Supreme Court of India dropping further action in the matter keeping in view that the grounds which are referred by the Special Chief Legal Advisor of the Anti-Corruption Bureau to file SLP before the Supreme Court was already discussed in the trial and finally the Hon'ble High Court set aside the orders of the trial Court.

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13. Further, the Commissioner of Prohibition & Excise, A.P., Hyderabad is requested to release the pensionary benefits of Sri Shaik Khader Babavali, Prohibition & Excise Inspector, Udayagiri, Nellore District, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.P. SINGH  
PRINCIPAL SECRETARY TO GOVERNMENT

To  
The Director General, Anti Corruption Bureau,  
A.P., Hyderabad  
The Commissioner of Prohibition & Excise, A.P., Hyderabad.  
Copy to:-  
The Deputy Commissioner of Prohibition & Excise, Guntur  
The Deputy Commissioner of Prohibition & Excise, Prakasam.  
The District Treasury Officer, Guntur.  
The District Treasury Officer, Prakasam.  
The Directorate of Treasuries & Accounts, Hyderabad  
The Secretary, A.P. Vigilance Commission, Hyderabad.  
Sf/Sc

//FORWARDED BY ORDER//

SECTION OFFICER